

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

PAUL MARKOWITZ,)	
)	
Plaintiff,)	
)	
VS.)	No. 14-2806-JDT-cgc
)	
UNIVERSITY OF MEMPHIS, ET AL.,)	
)	
Defendants.)	
)	

ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS*
AND ADOPTING REPORT AND RECOMMENDATION
TO ALLOW VOLUNTARY DISMISSAL

Plaintiff Paul Markowitz, a resident of Memphis, Tennessee, filed a *pro se* civil complaint on October 20, 2014,¹ and a motion for leave to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) Based on the information contained in that affidavit, the motion to proceed *in forma pauperis* is GRANTED.

On October 30, 2014, Plaintiff filed a “Motion to Non-Suit the Above Styled Case or in the Alternative, to Allow Service of Defendants at the Below Named Tennessee Claims Division, Division of Claims Administration, Jackson, Tennessee.” (ECF No. 6.) United States Magistrate Judge Charmiane G. Claxton issued a Report and Recommendation

¹ Plaintiff purports to file the action both on his own behalf and as the “next of friend” of Stan Bronson. (ECF No. 1 at 1, 15-16.) However, pursuant to 28 U.S.C. § 1654, parties in federal court “may plead and conduct their own cases personally or by counsel.” As a non-attorney, Plaintiff may not assert claims on behalf of Mr. Bronson in this action.

(“R&R) on December 23, 2014, in which she recommended that the motion for voluntary dismissal be granted. (ECF No. 7.) Objections to the R&R were due on or before January 9, 2015. *See* Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(d). However, Plaintiff has filed no objections.

The Court agrees that Federal Rule of Civil Procedure 41(a) applies and that Plaintiff should be permitted to voluntarily dismiss this case.² Therefore, the Court ADOPTS the R&R and DISMISSES this case pursuant to Federal Rule of Civil Procedure 41(a). The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

² Plaintiff’s alternative request that the Court allow the Defendants to be “served” at the Tennessee Claims Commission is puzzling. Filing a claim with the Tennessee Claims Commission is a separate option for those seeking to bring a claim against state employees, but a person who chooses to file such a claim waives his right to file an action against the individual employees, including an action under 42 U.S.C. § 1983. Tenn. Code Ann. § 9-8-307(b); *see also White By Swafford v. Gerbitz*, 860 F.2d 661 (6th Cir. 1988).